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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

9 MICHAEL WHITFIELD,

10 Plaintiff,

11 v.

12 NEVADA STATE PERSONNEL, *et al.*,

13 Defendants.

Case No.: 3:20-cv-00637-MMD-WGC

ORDER

Re: ECF No. 20

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15 Before the court is Plaintiff's "Motion for Reconsideration for Appointment of Counsel"
16 (ECF No. 20). Plaintiff seeks reconsideration of this court's order of June 22, 2021 (ECF No. 18),
17 which denied Plaintiff's motion for appointment of counsel (ECF No. 15). Plaintiff's rationale for
18 such is that (1) he is unable to obtain counsel and "has pursued all avenues open to him," (2)
19 Nevada Legal and Washoe Legal "cannot help and referred Plaintiff to Nevada State Bar which
20 has ran out of referrals for Plaintiff," (3) Plaintiff believes "Kevin Pick and Cameron Vandenberg
21 have blackballed the Plaintiff," (4) "Everyone has worked for Attorney General or Nevada
22 Department of Corrections at one time and stated conflict of interest," (5) there are "many
23 complicated cases and law and Federal Rules of Civil Procedure that are open to interpretation,"
(6) Plaintiff has reached out to Southern Nevada Legal Center and "is still waiting since August

1 2020,” and (7) there are “no services to assist pro se litigants and this makes this process grossly
2 unfair for the pro se litigant.” (*Id.* at 1, 2.)

3 As the court previously explained to Mr. Whitfield, while any *pro se* litigant would likely
4 benefit from services of counsel, that is not the standard this court must employ in determining
5 whether counsel should be appointed. *Wood v. Housewright*, 900 F.2d 1332, 1335-1336 (9th Cir.
6 1990).

7 Generally, a person has no right to counsel in civil actions.” *Palmer v. Valdez*, 560 F.3d
8 965, 970 (9th Cir. 2009) (citation omitted); *see also United States v. \$292,888.04*, 54 F.3d 564,
9 569 (9th Cir. 1995). 28 U.S.C. § 1915, however, governs in forma pauperis proceedings and
10 provides that the court may request an attorney to represent a person who cannot afford counsel.
11 28 U.S.C. § 1915(e)(1). Such an appointment is within the court’s discretion, and should
12 only be done when “exceptional circumstances” are present. *Palmer*, 560 F.3d at 970 (citation
13 omitted); *Agyeman v. Corrs. Corp. of Am.*, 390 F.3d 1101, 1103 (9th Cir. 2004) (quoting
14 *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986)). In determining whether these
15 circumstances exist, “a court must consider ‘the likelihood of success on the merits as well as the
16 ability of the petitioner to articulate his claims pro se in light of the complexity of the legal issues
17 involved.’” *Palmer*, 560 F.3d at 970 (quoting *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir 1983));
18 *Agyeman*, 390 F.3d at 1103. “Neither of these considerations is dispositive and instead must be
19 viewed together.” *Palmer*, 560 F.3d at 970 (citation omitted).

20 Plaintiff has again failed to explain the likelihood of success on the merits of his claims or
21 the complexity of the legal issues involved. Thus far, Plaintiff has demonstrated an ability to
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1 articulate his claims. While Plaintiff asserts that this case involves complex issues, he does not
2 explain how the issues are complex.

3 **IT IS HEREBY ORDERED** that Plaintiff's "Motion for Reconsideration for
4 Appointment of Counsel" (ECF No. 20) is **DENIED**.

5 The parties should be aware of the following:

- 6 1. That they may file, pursuant to 28 U.S.C. §636 (b)(1)(A) and Rule IB 3-1 of the
7 Local Rules of Practice, specific written objections to **the court's orders and**
8 **rulings as set forth in these minutes** within fourteen (14) days after service of
9 these minutes of proceedings. These objections should be titled "Objections to
10 Magistrate Judge's Order" and should be accompanied by points and authorities for
11 consideration by the District Court.
- 12 2. That this Order is not an appealable order and that any notice of appeal pursuant to
13 Rule 4(a)(1), Fed. R. App. P., should not be filed until entry of the District Court's
14 judgment.

15 DATED: July 7, 2021.

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17 WILLIAM G. COBB
18 UNITED STATES MAGISTRATE JUDGE
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